IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

Crl.MC.No. 2144 of 2007()

CC.536/2006 of ADDL. CHIEF JUDICIAL MAGISTRATE COURT, TRIVANDRUM

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PETITIONER: 1ST ACCUSED;

SAJI KUMAR.N.L., SAJI VIHAR,
NEAR SINDHU THEATRE, VENJARAMMOODU P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS: COMPLAINANT AND STATE:

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1. STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SREEJA, D/O.PRASAD, PRASAD HOUSE,
VISWAMBHARAN ROAD, PAPPANAMCODE P.O.,
THIRUVANANTHAPURAM-18.

BY PUBLIC PROSECUTOR ADV.SRI.GIKKU JACOB
SRI.K.RAJESH KANNAN

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C.No.2144 of 2007

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Dated this the 24th day of July, 2007

ORDER

The petitioner is the 1st accused in C.C.No.536/2002, pending before the learned Addl. Chief Judicial Magistrate, Trivandrum, on the basis of a private complaint filed by the respondent-claimant. Husband and his relatives had faced prosecution in that case.

2. The petitioner and the second respondent-complainant have now come before this court with a prayer that the prosecution initiated by the complainant before the learned Magistrate may now be quashed invoking the powers under Section 482 Cr.P.C. The parties have settled their disputes amicably. The Souses have resumed cohabitation and are residing harmoniously after the commencement of the proceedings. In these circumstances, the unnecessary continuance of the criminal prosecution against the petitioners is an avoidable irritant in their relationship. The second respondent has entered appearance through counsel. An affidavit duly attested has been filed by the second respondent. The affidavit shows that the matter has been settled between the parties. The learned counsel for the second respondent vouches for the fact of composition. Both counsel pray that the proceedings initiated by the respondent-complainant against

all the accused may now be quashed.

3. I am satisfied, from the submissions made at the Bar and from the affidavit filed by the respondent-complainant, that the parties have willingly and voluntarily settled their disputes amicably. As against the petitioner and also the co-accused the disputes have been settled and offences allegedly committed by them have been compounded by the complainant.

4. However, the offence under Section 498A I.P.C is not legally compoundable under Sec.320 Cr.P.C. The learned counsel, in these circumstances, rightly rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are not fettered by stipulations of Sec.320 Cr.P.C.

5. I am satisfied that this is an eminently fit case where the dictum in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386] can be invoked in the interests of justice. The interests of justice may at times transcend the interest of mere law. I am satisfied that the prayer of the petitioner and 2nd respondent can be accepted.

6. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.536/2002 against all the accused persons pending before the Judicial Addl.Chief Judicial Magistrate Court, Thiruvananthapuram is hereby quashed.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE